

## LABOUR DEPARTMENT

The 25th October, 1985

No. 9/5/84-6Lab/8891.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workmen and the management of M/s Indian Sulphacid Industries Ltd., G.T. Road, Shahabad Markanda (District Kurukshetra):—

BEFORE SHRI R.N. BATRA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL,  
HARYANA, FARIDABAD

Reference No. 115/1982

between

THE MANAGEMENT OF M/S INDIAN SULPHACID INDUSTRIES LTD., G.T. ROAD, SHAHABAD  
MARKANDA (DISTRICT KURUKSHETRA) AND ITS WORKMEN.

Present:—

Shri N.R. Munjal for the workmen.

Shri Manohar Lal for the management.

## AWARD

In exercise of the powers conferred by clause (c) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana referred the following dispute between the Management of M/s Indian Sulphacid Industries Ltd., G.T. Road, Shahabad Markanda (District Kurukshetra) and its Workmen to this Tribunal for adjudication:—

Whether the workmen are entitled to the grant of bonus for the year 1980-81, over and above the statutory minimum bonus under the Payment of Bonus Act, 1965? If so, with what details?

2. Notices were issued to both the parties. In the claim statement dated 18th August, 1982, it was alleged by the claimants that the workmen were entitled to bonus at the rate of 20% for the year 1980-81.

3. The Management in the written statement, dated 17th September, 1982 pleaded that there was no industrial dispute between the parties. It was further pleaded that during the accounting year 1980-81, there was a net loss of Rs 13,24,160 as would be evident from the audited Balance Sheet for the relevant year and that available surplus came to minus Rs. 78,70,404. It was also pleaded that there was constant loss in the company from 1976-77 except one year i.e. 1978-79. It was further pleaded that the workers had duly taken their bonus for the accounting year 1980-81 at the rate of 8.33% and that the demand for the bonus at the rate of 20% was unjustified and unreasonable because on the one hand, the Company was running in loss, while, on the other hand, bank squeeze, recession and shortage of orders had shattered it completely, so much so, that the Company was seriously thinking of effecting substantial retrenchment.

4. On the pleadings of the parties, the following issues were framed on 18th November, 1982:—

(1) Whether there is no Industrial Dispute as alleged in the written statement? OPM

(2) Whether the workmen are entitled to the grant of bonus for the year 1980-81, over and above the statutory minimum bonus under the Payment of Bonus Act, 1965? If so, with what details? OPM

5. The Management has examined one witness and documents Ex. M-1 to M3, have been tendered into evidence. The claimants have examined three witnesses and the documents Ex. W-1 to W-4 have been tendered into evidence. After going through the entire evidence and hearing the representatives of both the parties, my findings on the above issues are as under:—

Issue No. 1:

6. The Management examined MW-1 Shri M.C. Verma, Assistant Manager, who stated that there was no Chemical Mazdoor Union in the factory. On the other hand, the workmen examined WW-1 Shri Inder Sen Bansal General Secretary, who stated that the workers of the respondent factory had formed a Union known as Chemical Mazdoor Union, which was a registered one,—vide certificate Ex. W-1 and that the demand notice Ex. W-2 was served by this Union and further that settlement took place in conciliation proceedings, which were Ex. W-3 and W-4. WW-2 Shri Bahadur Singh stated that he was Secretary of the



Chemical Mazdoor Union. WW-3 Shri Sampat Dass stated that he was President of the Chemical Mazdoor Union previously. The letter of authority filed in these proceedings shows that it was signed by 55 members of the Chemical Mazdoor Union. All this evidence led by the claimants, therefore, clearly goes to prove that the Chemical Mazdoor Union exists in the respondent factory, which is a registered one, and that the dispute has been raised by the said Union and further that 55 workers have authorised Shri Indersen Bansal etc. to represent in these proceedings. Consequently, the Management has failed to prove that there is no Industrial Dispute. The issue is decided accordingly against the Management.

#### Issue No. 2:

7. The claimants have examined Shri Bahadur Singh (WW-2) who stated that there was no obstruction in production during the year 1980-81 and that goods were manufactured according to capacity and were sold in the market. He further stated that the factory earned profit and that workers of the Union were not consulted when the balance sheets were prepared. WW-3 Shri Sampat Das stated that the production during the year 1980-81 in the factory was normal and that all the goods were sold. He further stated that there was no strike in the factory nor there was any slump in the market. He also stated that there were large profits in the factory, but the bonus was not given on that basis. He stated that the bonus should have been given at the rate of 20%. He further stated that the balance sheet was never shown to them and that the workers were not consulted, when the balance-sheet was prepared.

8. The management examined MW-1 Shri M.C. Verma Assistant Manager, who stated that Acid Plant had been set up by the Management which was a continuous process, and that plant could not be closed even for an hour because it became cool and required heavy expenses to start the machinery. He further stated that the licensed capacity of the plant was 3000 mm per year as mentioned in schedule M of the balance sheet Ex M-1 and that the production for the year 1980-81 was 30% of the licensed capacity as shown in schedule Ex. M-1. He further stated that due to power shortage, shortage of raw material (Sulphur), less demand of goods in the market and shortage of working capital the Management could not achieve the full target and their production was 30% of its licensed capacity. He also stated that they incurred net losses to the extent of Rs. 13,24,160 as shown in the profit and loss account statement at page 13 of the balance sheet Ex. M-1 and the statement Ex. M-2. He also stated that they earned profit during the year 1978-79, vide statement Ex. M-3 but thereafter they were incurring losses for the reasons given at page 24 of the balance sheet Ex. M-2 which was audited by the Chartered Accountants. He then stated that the bonus was paid at the minimum rate of 8.33% during the year 1980-81 and that the demand of the claimants to pay bonus at the rate of 20% during the year 1980-81 was not justified.

9. A perusal of the above evidence would show that MW-1 Shri M.C. Verma, Assistant Manager, has deposed that the respondent company incurred losses to the extent of Rs. 13,24,160 during the year 1980-81 as shown at page 13 of the balance sheet Ex. M-1 and that the production was 30% of the licensed capacity. The statements Ex. M-2 and M-3 go to show that the available surplus during the year 1980-81 was minus Rs. 78,70,404.00. The reasons for less production have been given by this witness viz. shortage of power, shortage of sulphur, less demand of goods in the market and shortage of working capital. At page 6 of the balance sheet Ex. M-1 these reasons have been mentioned in detail. Consequently, the testimony of MW-1 Shri M.C. Verma is supported by the documentary evidence Ex. M-1 to M-3 which shows that the respondent company incurred net losses to the extent of Rs. 13,24,160.00 during the year 1980-81 and that available surplus was minus Rs. 78,70,404.00 during this period due to which the respondents were liable to give the bonus at the minimum rate of 8.33%. The oral testimony of WW-2 Shri Bahadur Singh and WW-3 Shri Sampat Dass to the effect that the respondent company earned profit during this year cannot be accepted because the same is not based on any documentary evidence. On the other hand, the Management has led oral as well as documentary evidence to show that the respondent company earned losses during the year 1980-81. Consequently, the claimants are not entitled to the grant of bonus for the year 1980-81, over and above the statutory minimum bonus under the Payment of Bonus Act, 1965. The award is passed accordingly.

R. N. BATRA,

Presiding Officer,

Industrial Tribunal, Haryana,  
Faridabad.

Dated 7th October, 1985.

Endst. No. 790, dated 7th October, 1985

Forwarded (four copies) to the Commissioner and Secretary to Government Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

R. N. BATRA,

Presiding Officer,  
Industrial Tribunal, Haryana,  
Faridabad.